
By: ~~Delegates Kaiser and Bozman, Bozman, Conroy, DeBoy, and Lawton~~

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Assigned to: Ways and Means

Committee Report: Favorable with amendments

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CHAPTER _____

1 AN ACT concerning

2 ~~Public Schools – Student Health – Diabetes and Body Mass Index Screening~~
 3 ~~and Nutrition Standards~~
 4 ~~Student Health - Maryland Obesity Awareness and Prevention Blue Ribbon~~
 5 ~~Panel~~

6 FOR the purpose of ~~requiring county boards of education to provide diabetes~~
 7 ~~screening tests and body mass index calculations for each student in each public~~
 8 ~~school at a certain time; requiring county boards of education to provide a report~~
 9 ~~of a student's body mass index if a student has a body mass index above or below~~
 10 ~~certain percentiles; requiring county boards of education to provide a copy of the~~
 11 ~~diabetes screening report if a student is suspected of having diabetes;~~
 12 ~~prohibiting county boards of education from requiring a student to be screened~~
 13 ~~under certain circumstances; providing that a person who performs a screening~~
 14 ~~or calculation has a certain immunity from liability; requiring county boards of~~
 15 ~~education to establish a food service program, to prohibit the sale of certain~~
 16 ~~foods and beverages during certain hours, to make certain limitations on foods~~
 17 ~~and beverages sold in elementary schools, to adopt certain nutrition and~~
 18 ~~wellness policies for high schools, and to form nutrition integrity teams;~~
 19 ~~requiring county boards of education to require the choice of certain fruits and~~
 20 ~~vegetables at certain locations and to limit the sizes of packages of certain foods~~
 21 ~~and beverages; and generally relating to student health, diabetes, and body~~
 22 ~~mass index screening and nutrition standards establishing the Maryland~~
 23 ~~Obesity Awareness and Prevention Blue Ribbon Panel; providing for the~~
 24 ~~membership, chair, and staff of the Blue Ribbon Panel; providing that a member~~
 25 ~~of the Blue Ribbon Panel may not receive compensation but may receive certain~~
 26 ~~reimbursement as provided in the State budget; providing for the duties of the~~
 27 ~~Blue Ribbon Panel; requiring the Blue Ribbon Panel to submit certain reports to~~
 28 ~~the Governor and General Assembly on or before certain dates; providing for the~~

1 termination of this Act; and generally relating to student health and the
 2 Maryland Obesity Awareness and Prevention Blue Ribbon Panel.

3 ~~BY adding to~~

4 ~~Article—Education~~

5 ~~Section 7-425 and 7-426~~

6 ~~Annotated Code of Maryland~~

7 ~~(2004 Replacement Volume and 2005 Supplement)~~

8 ~~BY adding to~~

9 ~~Article—Courts and Judicial Proceedings~~

10 ~~Section 5-642~~

11 ~~Annotated Code of Maryland~~

12 ~~(2002 Replacement Volume and 2005 Supplement)~~

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article—Education**

16 ~~7-425.~~

17 ~~(A) A COUNTY BOARD, IN CONJUNCTION WITH THE COUNTY HEALTH~~
 18 ~~DEPARTMENT, SHALL PROVIDE DIABETES SCREENING TESTS AND BODY MASS INDEX~~
 19 ~~CALCULATIONS FOR EACH STUDENT IN EACH PUBLIC SCHOOL AT THE SAME TIME A~~
 20 ~~SCOLIOSIS SCREENING TEST, REQUIRED UNDER § 7-405 OF THIS SUBTITLE, IS~~
 21 ~~PERFORMED ON THE STUDENT.~~

22 ~~(B) (1) IF A STUDENT HAS A BODY MASS INDEX UNDER THE 5TH~~
 23 ~~PERCENTILE OR ABOVE THE 85TH PERCENTILE FOR THE STUDENT'S AGE AND~~
 24 ~~GENDER, THE COUNTY BOARD SHALL PROVIDE THE PARENT OR GUARDIAN OF THE~~
 25 ~~STUDENT WITH A REPORT OF THE STUDENT'S BODY MASS INDEX THAT INCLUDES~~
 26 ~~THE STUDENT'S BODY MASS INDEX AND INFORMATION ASSOCIATED WITH HAVING A~~
 27 ~~VERY LOW OR VERY HIGH BODY MASS INDEX.~~

28 ~~(2) IF A STUDENT IS SUSPECTED OF HAVING DIABETES, THE COUNTY~~
 29 ~~BOARD SHALL PROVIDE THE PARENT OR GUARDIAN OF THE STUDENT WITH A COPY~~
 30 ~~OF THE SCREENING REPORT THAT INCLUDES INFORMATION ABOUT:~~

31 ~~(I) THE DISEASE OF DIABETES; AND~~

32 ~~(II) THE SIGNIFICANCE OF TREATING DIABETES AT AN EARLY~~
 33 ~~STAGE.~~

34 ~~(C) A COUNTY BOARD MAY NOT REQUIRE A STUDENT WHOSE PARENT OR~~
 35 ~~GUARDIAN OBJECTS IN WRITING TO A SCREENING OR CALCULATION REQUIRED~~
 36 ~~UNDER SUBSECTION (A) OF THIS SECTION TO BE SCREENED.~~

~~1 (D) A PERSON WHO PERFORMS ANY SCREENING OR CALCULATION UNDER
2 THIS SECTION SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER §
3 5-642 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.~~

~~4 7-426.~~

5 (A) A COUNTY BOARD SHALL:

6 (1) ESTABLISH A SCHOOL FOOD SERVICE PROGRAM THAT SHALL
7 REVIEW AND APPROVE ALL FOODS SOLD ON SCHOOL PROPERTY;

8 (2) PROHIBIT THE SALE, BETWEEN 12:01 A.M. AND THE END OF THE
9 STANDARD SCHOOL DAY, OF FOODS OF MINIMAL NUTRITIONAL VALUE, AS
10 ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT;

11 (3) IN ELEMENTARY AND MIDDLE SCHOOLS, PROHIBIT THE SALE OF
12 ANY FOOD, OTHER THAN MAIN COURSE FOOD ITEMS OFFERED AS AN ALTERNATIVE
13 TO THE FOODS OFFERED UNDER THE SUBSIDIZED AND FREE FEEDING PROGRAMS
14 ESTABLISHED UNDER SUBTITLE 6 OF THIS TITLE OR UNDER THE BREAKFAST
15 PROGRAM ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE, TO CONTAIN:

16 (I) EXCEPT FOR PACKAGED NUTS AND SEEDS, MORE THAN 9
17 GRAMS OF TOTAL FAT;

18 (II) MORE THAN 2 GRAMS OF SATURATED FAT; AND

19 (III) EXCEPT FOR DRIED FRUIT WITH NO ADDED SUGAR, MORE THAN
20 15 GRAMS OF SUGAR;

21 (4) LIMIT FOOD AND BEVERAGES SOLD INDIVIDUALLY IN ELEMENTARY
22 SCHOOLS TO LOW FAT AND NONFAT MILK, FRUITS, AND NONFRIED VEGETABLES;

23 (5) ADOPT NUTRITION AND WELLNESS POLICIES FOR HIGH SCHOOLS
24 THAT REFLECT THE IMPORTANCE OF CHOOSING FOODS AND BEVERAGES WITH LOW
25 FAT AND SUGAR CONTENT, APPROPRIATE SERVING SIZES, HEALTHY DECISION
26 MAKING BY STUDENTS REGARDING FOOD AND BEVERAGE CHOICES, THE ROLE OF
27 NUTRITION EDUCATION IN THE SCHOOL CURRICULUM, AND DEVELOPING AND
28 PROMOTING OPPORTUNITIES FOR PHYSICAL ACTIVITY;

29 (6) FORM A NUTRITION INTEGRITY TEAM THAT INCLUDES
30 REPRESENTATIVES FROM SCHOOL ADMINISTRATION, SCHOOL HEALTH, EDUCATION,
31 PHYSICAL EDUCATION, AND SCHOOL AND NUTRITION SERVICES TO SUPPORT THE
32 PRACTICE OF HEALTHY EATING, NUTRITION EDUCATION, AND PHYSICAL ACTIVITY
33 IN SCHOOLS; AND

34 (7) TO THE EXTENT PRACTICABLE, SELL PRODUCE OR FOODS MADE
35 WITH PRODUCE GROWN IN THE STATE.

36 (B) EXCEPT FOR FOODS OFFERED UNDER THE SUBSIDIZED AND FREE
37 FEEDING PROGRAMS ESTABLISHED UNDER SUBTITLE 6 OF THIS TITLE OR UNDER

1 THE BREAKFAST PROGRAM ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE, FOR
2 ALL FOOD AND BEVERAGE ITEMS SOLD INDIVIDUALLY IN MIDDLE OR SECONDARY
3 SCHOOLS BETWEEN 12:01 A.M. AND THE END OF THE SCHOOL DAY OR DURING A
4 PROGRAM FOR STUDENTS AFTER THE SCHOOL DAY, A COUNTY BOARD SHALL:

5 (1) PROHIBIT THE SALE OF INDIVIDUAL FOOD AND BEVERAGE ITEMS
6 THAT:

7 (I) EXCEPT FOR NUTS, SEEDS, PEANUT BUTTER, AND OTHER NUT
8 BUTTERS, HAVE MORE THAN 35% OF THE TOTAL CALORIES PER PACKAGE FROM FAT;

9 (II) EXCEPT FOR FRUITS, VEGETABLES, AND DAIRY FOODS, HAVE
10 MORE THAN 35% OF THE TOTAL PACKAGE WEIGHT FROM ADDED SUGAR OR, IF THE
11 PACKAGING DOES NOT PROVIDE THE ADDED SUGAR CONTENT OF A FOOD ITEM,
12 FROM TOTAL SUGAR;

13 (III) FOR CHIPS, CEREALS, CRACKERS, FRENCH FRIES, BAKED
14 GOODS, AND OTHER SNACK ITEMS, CONTAIN MORE THAN 230 MILLIGRAMS OF
15 SODIUM PER SERVING;

16 (IV) FOR PASTAS, MEATS, AND SOUPS, CONTAIN MORE THAN 480
17 MILLIGRAMS OF SODIUM PER SERVING; AND

18 (V) FOR PIZZA, SANDWICHES, AND MAIN DISHES, CONTAIN MORE
19 THAN 600 MILLIGRAMS OF SODIUM PER SERVING;

20 (2) REQUIRE THAT A CHOICE OF AT LEAST TWO FRUITS OR NONFRIED
21 VEGETABLES BE OFFERED FOR SALE AT ANY LOCATION WHERE FOODS ARE SOLD;

22 (3) PROHIBIT THE SALE OF:

23 (I) SOFT DRINKS THAT CONTAIN ARTIFICIAL SWEETENERS;

24 (II) SPORTS DRINKS;

25 (III) ICED TEAS;

26 (IV) FRUIT-BASED BEVERAGES THAT CONTAIN LESS THAN 50%
27 REAL FRUIT JUICE OR THAT CONTAIN ADDITIONAL CALORIC SWEETENERS; AND

28 (V) EXCEPT FOR LOW FAT OR NONFAT CHOCOLATE MILK,
29 BEVERAGES THAT CONTAIN CAFFEINE; AND

30 (4) LIMIT THE SIZES PER PACKAGE TO:

31 (I) 1.25 OUNCES FOR CHIPS, CRACKERS, POPCORN, CEREAL, TRAIL
32 MIX, NUTS, SEEDS, DRIED FRUIT, AND JERKY;

33 (II) 1 OUNCE FOR COOKIES;

1 (III) 2 OUNCES FOR CEREAL BARS, GRANOLA BARS, PASTRIES,
2 MUFFINS, DOUGHNUTS, BAGELS, AND OTHER BAKERY ITEMS;

3 (IV) 4 FLUID OUNCES FOR FROZEN DESSERTS, INCLUDING LOW FAT
4 OR NONFAT ICE CREAM;

5 (V) 8 OUNCES FOR NONFROZEN YOGURT;

6 (VI) EXCEPT FOR WATER, 12 FLUID OUNCES FOR BEVERAGES; AND

7 (VII) EXCEPT FOR FRUITS AND NONFRIED VEGETABLES, FOR
8 ENTREES AND SIDE DISHES, A SIZE COMPARABLE TO THE SIZE FOR PORTIONS OF
9 COMPARABLE ITEMS OFFERED UNDER THE SUBSIDIZED AND FREE FEEDING
10 PROGRAMS ESTABLISHED UNDER SUBTITLE 6 OF THIS TITLE OR UNDER THE
11 BREAKFAST PROGRAM ESTABLISHED UNDER SUBTITLE 7 OF THIS TITLE.

12 **Article— Courts and Judicial Proceedings**

13 ~~5-642.~~

14 ~~A PERSON WHO PERFORMS ANY DIABETES SCREENING OR BODY MASS INDEX~~
15 ~~CALCULATION REQUIRED UNDER § 7-425 OF THE EDUCATION ARTICLE IS NOT LIABLE~~
16 ~~FOR ANY CIVIL DAMAGES RESULTING FROM ACTS OR OMISSIONS IN THE SCREENING~~
17 ~~OR CALCULATION NOT AMOUNTING TO GROSS NEGLIGENCE.~~

18 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
19 ~~July 1, 2006.~~

20 (a) There is a Maryland Obesity Awareness and Prevention Blue Ribbon
21 Panel.

22 (b) The purpose of the Blue Ribbon Panel is to develop recommendations for a
23 Maryland Obesity Action Plan, which will include actionable measures to support and
24 enhance obesity awareness and prevention among parents and students.

25 (c) The Blue Ribbon Panel consists of the following members:

26 (1) one member of the Senate of Maryland, appointed by the President of
27 the Senate;

28 (2) one member of the House of Delegates, appointed by the Speaker of
29 the House;

30 (3) the Secretary of Health and Mental Hygiene, or the Secretary's
31 designee;

32 (4) the State Superintendent of Schools, or the State Superintendent's
33 designee;

1 (5) one local board member, designated by the Maryland Association of
2 Boards of Education; and

3 (6) the following members, appointed by the Governor:

4 (i) two representatives from among the following industries:

5 1. food processors;

6 2. food manufacturers;

7 3. the retail industry;

8 4. the soft drink industry; or

9 5. a member of the Restaurant Association or a restaurant
10 owner;

11 (ii) one representative from a nonprofit organization that works
12 with obesity related issues;

13 (iii) one physical fitness expert or member of the State Physical
14 Fitness Council;

15 (iv) one pediatrician;

16 (v) one school nurse or school health officer;

17 (vi) one active member of a Parent Teacher Association; and

18 (vii) one psychiatrist or psychologist with expertise in eating
19 disorders among children and youth.

20 (d) To the extent practicable, when appointing members to the Blue Ribbon
21 Panel, the Governor shall assure that the membership of the Blue Ribbon Panel
22 reflects the geographic, racial, ethnic, and gender diversity of the State.

23 (e) The Department of Education and the Department of Health and Mental
24 Hygiene shall staff the Blue Ribbon Panel.

25 (f) A member of the Blue Ribbon Panel:

26 (1) may not receive compensation; but

27 (2) is entitled to reimbursement for expenses under the Standard State
28 Travel Regulations, as provided in the State budget.

29 (g) The Blue Ribbon Panel shall:

30 (1) study the Department of Education's 2006 Nutrition and Physical
31 Activity Statewide Plan;

- 1 (2) evaluate the potential of the following measures as components of the
2 Maryland Obesity Action Plan:
- 3 (i) development of a media health promotion campaign targeted to
4 children and adolescents and their parents and caregivers;
- 5 (ii) establishment of school-based childhood obesity prevention
6 nutrition education and physical education activities;
- 7 (iii) establishment of community-based childhood obesity
8 prevention nutrition education and physical activity programs that involve parents
9 and caregivers;
- 10 (iv) coordination of State and federal efforts with local government
11 agencies to incorporate strategies to prevent childhood obesity into food assistance,
12 health, education, childcare, and recreation programs;
- 13 (v) examination of the role body mass index plays as a screening
14 tool for school-aged children and adolescents;
- 15 (vi) sponsorship of periodic conferences to bring together experts in
16 nutrition, exercise, public health, mental health, education, parenting, media, food
17 marketing, agriculture, community planning, and other disciplines to consider
18 societal solutions to the problem of obesity in children and adolescents and to
19 recommend guidelines for public policy in the State;
- 20 (vii) development and implementation of community-based projects
21 targeted to high-risk populations that consider behavioral and cultural factors;
- 22 (viii) development of training programs for health care professionals
23 and school health coordinators; and
- 24 (ix) any other measures the Blue Ribbon Panel considers
25 appropriate.
- 26 (h) (1) On or before June 1, 2007, the Blue Ribbon Panel shall submit an
27 interim report of its findings and recommendations for a Maryland Obesity Action
28 Plan to the Governor, and in accordance with § 2-1246 of the State Government
29 Article, the General Assembly.
- 30 (2) On or before June 1, 2008, the Blue Ribbon Panel shall submit a final
31 report of its findings and recommendations for a Maryland Obesity Action Plan to the
32 Governor, and in accordance with § 2-1246 of the State Government Article, the
33 General Assembly.
- 34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2006. It shall remain effective for a period of 2 years and, at the end of
36 September 30, 2008, with no further action required by the General Assembly, this
37 Act shall be abrogated and of no further force and effect.

